

**APPROVED BY THE TIVERTON TOWN COUNCIL ON MARCH 9, 09**  
**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**  
**COUNTY OF NEWPORT**

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 9th day of March 2009.

A.D. at 7:00 p.m.

President Bollin opened the meeting with the Pledge of Allegiance to the Flag.

<b>Roll Call:</b>	<b>Donald Bollin- President</b>	<b>Jay Lambert</b>
	<b>JoAnne Arruda- Vice President</b>	<b>Cecil E. Leonard</b>
	<b>Hannibal Costa</b>	<b>Edward Roderick</b>
	<b>Louise Durfee</b>	

Town Administrator, James C. Goncalo

Town Solicitor, Andrew M. Teitz were also present.

**Approval of Consent Agenda:**

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Council President Bollin at this time read all the items listed on the Consent Agenda for approval.

Councilor Durfee made a motion, seconded by Councilor Costa to approve the Consent Agenda. Motion passed unanimously.

The Consent Agenda was as follows:

**CONSENT AGENDA**

**A-1-Approval of Minutes of Previous Meetings:**

1. a. Approval of Minutes from February 23, 2009 Regular Council Meeting
- b. Approval of Executive Session Minutes from February 23, 2009 Council Meeting

**A-2-Receipt of Minutes from Various Board and Commissions:**

2. Receipt of Minutes from the Following Boards, Commissions
  - a. Prevention Coalition
  - b. Art Council
  - c. Open Space Commission
  - d. Planning Board
  - e. Wastewater Management

**A-3-Correspondence**– Receive and File

- a. Received From Town of West Warwick - Resolution in Support of All Bills Submitted in General Assembly Related to Ending Caruolo Action Against Cities and Towns
- b. Received From C. Spencer, Town Planner Regarding Workshop on Status of Comprehensive Plan
- c. Received From Attorney Donnelly Regarding Request to Purchase Land on William Avenue – Referred to Town Solicitor
- d. Received From Representative Edwards Regarding Storm Water II Relief
- e. Received From Representative Edwards Regarding Support of Renaming Sakonnet River Bridge

**A-4-Approval of Tax Assessor Abatements**

**A-5-Distribution of Red-Lined Copy of Town Charter as Amended on November 4, 2008 to be Forwarded to General Assembly for Enabling Legislation Regarding the Amendments**

**BUSINESS BROUGHT BEFORE THE COUNCIL**

Councilor Durfee made a motion, seconded by Councilor Roderick to adopt the Proclamation April 2009 as “Fair Housing Month in Tiverton”. Motion passed unanimously.

Councilor Arruda read the Resolution Proclaiming April 2009 as Fair Housing Month in Tiverton.

**PROCLAMATION - FAIR HOUSING MONTH IN TIVERTON APRIL 2009**

**RESOLUTION OF THE TIVERTON TOWN COUNCIL**  
**PROCLAIMING APRIL 2009**

**FAIR HOUSING MONTH IN TIVERTON**

**WHEREAS:** there is an urgent need to acquaint the public with the concept of equal opportunity for all people in their quest for adequate housing; and

**WHEREAS:** discriminatory practice, no matter how subtle it may be, should be discouraged in order that all citizens, regardless of ethnic background or income level, may fulfill their dreams of home ownership or having the right to rent property in locations of their choice; and

**WHEREAS:** assurance should be given that these citizens will be made aware of an optimum number of location choices within their price and interest range, and be provided with information on housing availability, methods of financing and other facts affecting a prospect's choice for housing; and

**WHEREAS:** the principles set forth in the Constitution of the United States and the Bill of Rights cover all areas of our life and society and should be guaranteed to all citizens; and

**WHEREAS:** the Town Council, at its regularly scheduled meeting on Monday, March 9, 2009, by motion made and unanimously passed did proclaim

**APRIL 2009**

**"FAIR HOUSING MONTH IN TIVERTON"**

and urge the citizens of Tiverton to join the Church Community Housing Corporation and the Community Housing Resource Board in this observance. **BY ORDER OF THE TIVERTON TOWN COUNCIL**

Councilor Arruda read the Proclamation for Cleanup Week.

Councilor Roderick made a motion seconded by Councilor Arruda to adopt the Proclamation "Tiverton Cleanup Week, Litter Free, the Way to Be", Saturday, April 18<sup>th</sup> through Sunday, April 26<sup>th</sup>. Motion passed unanimously.

**PROCLAMATION – TIVERTON CLEANUP WEEK BEGINNING APRIL 18, 2009**

**TIVERTON TOWN COUNCIL  
343 HIGHLAND ROAD  
P R O C L A M A T I O N**

The Town Council, at its regularly scheduled meeting on Monday, March 9, 2009, by motion made and unanimously passed did proclaim, at the request of the Tiverton Garden Club,

**"TIVERTON CLEANUP WEEK"**

**"LITTER FREE ~ ~ THE WAY TO BE"**

**SATURDAY, APRIL 18<sup>th</sup> THROUGH SUNDAY, APRIL 26<sup>th</sup>**

The kickoff for Cleanup Week commences on Saturday, April 18<sup>th</sup>, 2009

From 9:00 a.m. to 2:00 p.m. at the Dept. of Public Works, 20 Industrial Way.

Sign-up sheets will be available at Coastal Roasters, Town Hall

And Essex Public Library beginning April 6, 2009.

Trash bags will be available at Essex Public Library on Highland Road beginning

April 3, 2009 and at the Dept. of Public Works on April 18<sup>th</sup>.

Awards will be presented to poster contest winners from Grades 1-4

At the Town Hall at 10:00 a.m. on April 25, 2009

**BY ORDER OF THE TIVERTON TOWN COUNCIL:**

**FINANCIAL BUSINESS:**

**Honorable Representative John Loughlin III – Update Regarding Governor's Proposed Budget and Stimulus Proposals**

Honorable Representative John Loughlin III, waiting for Bev Najarian, Dept. of Administration to arrive, asked the Council at this time to be moved further down on the agenda.

**Town Administrator/Chief Lloyd – Request Transfer of Funds**

**a. \$6,822.92 from Acct#331-106 (Longevity) to Acct#331-102 (Overtime)**

**b. \$3,200.00 from Acct#331-105 (Holidays) to Acct# 331-102 (Overtime)**

Councilor Leonard made a motion, seconded by Councilor Durfee, to approve the total transfer of \$10,022.92, \$6,822.92 from Account #331-106 (Longevity) to Account #331-102 (Overtime) and \$3,200.00 from Account #331-105 to Account #331-102 (Overtime). Motion passed 6-1, Councilor Costa abstained.

**Town Administrator – State Aid Reduction – Transfer of Funds (Attached Listing) to Account #112-999**

Administrator Goncalo, previously discussed a State Aid Reduction Account, money transferred out of operating and salary accounts for anticipated reductions in State aid.

Councilor Durfee made a motion, seconded by Councilor Costa, to establish a State Aid Reduction Account and to transfer amounts listed thereby removing them from the stated accounts. Motion passed unanimously. The list was as follows:

<b>FROM</b>		<b>TO</b>		
<b>ACCOUNT</b>	<b>DESCRIPTION</b>	<b>ACCOUNT</b>	<b>DESCRIPTION</b>	<b>AMOUNT</b>
222-263	Police Pension	112-999	State Aid Reduction	\$ 60,000
553-442	Landfill Cover	112-999	State Aid Reduction	\$ 42,000
554-794	Drainage & Paving	112-999	State Aid Reduction	\$ 90,000
	<b>Non Recurring</b>	112-999		
098-984	Fire Apparatus	112-999	State Aid Reduction	\$ 54,142
098-995	Vacuum Sweeper	112-999	State Aid Reduction	\$ 23,254
331-110	Fire-Fire Prevention	112-999	State Aid Reduction	\$ 12,000
	<b>Tax Assessor</b>	112-999		
212-100	Salaries	112-999	State Aid Reduction	\$ 1,600
212-521	Mileage	112-999	State Aid Reduction	\$ 500
212-535	Telephone	112-999	State Aid Reduction	\$ 1,000
212-623	Supplies	112-999	State Aid Reduction	\$ 1,000
212-730	Software Mtce	112-999	State Aid Reduction	\$ 1,000
214-623	Treasurer supplies	112-999	State Aid Reduction	\$ 2,000
215-100	Tax Collector Salary	112-999	State Aid Reduction	\$ 1,160
106-623	Building Supplies	112-999	State Aid Reduction	\$ 1,000
106-829	Boarding of Buildings	112-999	State Aid Reduction	\$ 400
108-672	Zoning Copy Services	112-999	State Aid Reduction	\$ 271
	<b>Senior Center</b>	112-999		
988-535	Telephone	112-999	State Aid Reduction	\$ 200
988-612	Electric	112-999	State Aid Reduction	\$ 500
988-525	Agency Dues	112-999	State Aid Reduction	\$ 560
101-550	Town Clerk	112-999	State Aid Reduction	\$ 5,000
101-100	Town Clerk Salary	112-999	State Aid Reduction	\$ 1,755
106-100	Bldg Insp Salary	112-999	State Aid Reduction	\$ 806
115-100	Planner Salary	112-999	State Aid Reduction	\$ 1,688
331-100	Fire Chief Salary	112-999	State Aid Reduction	\$ 1,877
333-100	Police Chief Salary	112-999	State Aid Reduction	\$ 3,235
988-100	Sr. Ctr Salary	112-999	State Aid Reduction	\$ 2,266
	<b>TOTAL</b>			<b>\$ 309,214</b>

**Town Treasurer – Distribution of F/Y 2009-10 Revenue Projections**

Treasurer Philip DiMattia appeared before the Council to discuss revenue projections for F/Y 2009-10. Councilor Durfee, at a previous Council Workshop, questioned how much was in the Debt Service reserve account and what it was earning. Treasurer to get back to the Council on that matter. Councilor Lambert questioned the estimated projections for 2009/2010, which did not include two key elements, property taxes and revenue sharing. According to the Treasurer it was very difficult to estimate at this time. Administrator Goncalo noted in order to calculate the tax rate a tax base is needed. Not available at this point. Councilor Durfee noted in the past revenue sharing and the tax base were usually known by April. Not this year.

Councilor Lambert voiced his concerns of tax rates up to 10%, and Town needing concessions from the unions. President Bollin was looking for realistic projections because of the budget uncertainty. For example the meals tax projected to be \$180,000, not sure in this economy those numbers will be generated and the trade name for new businesses revenue going from 580 to 800 seems unrealistic. Councilor Durfee questioned the School Housing Aid of \$735,000 and how it was reached. The Treasurer calculated 30% of debt service minus the Starwood Bonds. Administrator noted this would be a

constant review. Several Councilors preferred more conservative projection estimates. Councilor Durfee asked the Treasurer to come back with more realistic projections.

#### **APPOINTMENTS & RESIGNATIONS**

##### **Town Administrator – Requests Appointment of Town Council Member to Landfill/Recycling Committee**

Needing a Council Member for the Landfill/Recycling Committee, Councilor Durfee made a motion to appoint Councilor Lambert. Seconded by Councilor Roderick, motion passed unanimously. Councilor Lambert agreed to take appointment.

##### **Frank R. Joslin, 68 South Avenue – Request Appointment to Conservation Commission**

Councilor Lambert made a motion to appoint Frank R. Joslin, 68 South Avenue to the Conservation Commission. Seconded by Councilor Arruda motion passed unanimously.

##### **Honorable Representative John Loughlin III – Update Regarding Governor’s Proposed Budget and Stimulus Proposals-Continued from earlier**

At this time Rep. Loughlin asked to come to the next Council Meeting due to the inability of Beverly Najarian to attend tonight’s meeting due to illness.

Councilor Durfee made a motion to continue the update to March 23,2009. Seconded by Councilor Costa motion passed unanimously.

At this time Councilor Leonard requested item G-2 be moved up in front of D-3. Seconded by Councilor Roderick motion passed unanimously.

##### **Claudia Linhares, President Tiverton Little League – Request Permission To Allow Sponsorship Signage at Three Town Farm Ball Fields**

Claudia Linhares and Cheri Olf from the Tiverton Little League appeared before the Council to request permission to allow sponsorship signage at the Town Farm Ball Fields. President Bollin asked if they had been before the Recreation Commission. Gary Rose, chair of the Rec. Comm. noted this item was on their agenda for March 17<sup>th</sup>. Members of the Recreation Commission have not seen the proposal. Councilor Costa then made a motion to grant permission if Recreation approves their request. Councilor Leonard was reluctant to bypass procedures. Several Councilors expressed concerns about bypassing the authority of the Recreation Commission not wanting influence how Recreation votes. Council understood the time constraints but did not want to overstep. Councilor Costa then withdrew his motion.

Councilor Leonard made a motion, seconded by Councilor Durfee to defer the matter to the Recreation Commission. Motion passed unanimously.

##### **Florence E. Sippel, Town Moderator – Resignation To Be Effective Immediately**

Councilor Durfee made a motion to accept the resignation of Florence E. Sippel, Town Moderator. Noted this was a very difficult job. Directed the Clerk to send a letter with regret and thanks. Seconded by Councilor Leonard, motion passed unanimously.

Town Clerk to look at procedure regarding replacement moderator.

#### **PUBLIC HEARINGS- ADVERTISED**

##### **Steve Ostiguy, Church Community Housing - Public Hearing - Community Development Block Grant Program**

Steve Ostiguy, Executive Director of the Church Community Housing Corporation appeared before the Council for the first of two Public Hearings on the Town’s eligibility for the Community Development Block Grant (CDBG). The first Public Hearing is for comments and consideration. The Town can apply for up to \$250,000. Town was requested if there are applications that qualify for additional stimulus funds-economic, shovel ready, infrastructure, housing. The Town has applied for over 22 years. All funds have to benefit low and moderate-income residents. Have received several letters of interest from Community Housing Resource Board, Women’s Resource Center, Dadson Estates, Four Seasons Mobile Home Park as well as some projects from the Town. This hearing is to receive comments and be considered. There will be a second Public Hearing in the near future.

Councilor Leonard wanted to know what was considered low income. According to Mr. Ostiguy, 80% of median income, and \$54,000 for a family of four. Susan Skank from the East Bay Community Action Program wanted to be added to the list for improvements to the facility. Peter Moniz thought the Town should take advantage of the grants and become

more proactive with the process, possibly for improvements to the Community Center, North Tiverton, sewer lines on Main Road.

Councilor Durfee made a motion, seconded by Councilor Roderick to close the Public Hearing. Motion passed unanimously.

**Town Solicitor – Proposed Adoption of an Ordinance Amending Chapter 22 to Formalize and Elaborate on Existing Practices for Entertainment at Business Establishments and/or for Money-Making Purposes - Continue From December 8<sup>th</sup> – Request Continuance to February 23<sup>rd</sup> Meeting**

To some extent this Ordinance memorializes what the Town has been doing with regard to Entertainment Licenses. A Commercial Business would need a License (Indoor) from Town Council, with notice, publication and public hearing, an Outdoor License for a Commercial Business is not allowed. Non-commercial entities and individuals, with no fee, not more than 100 attendees (not more than twice per year) are allowed indoor entertainment. A public entertainment license would be required from the Town Clerk for an Outdoor License. Non-commercial entities and individuals who charge a fee or have over 100 attendees would require an Indoor or an Outdoor License from the Town Clerk. Must come in 14 days prior to the event for the license. Cannot have more than twice per year. Outdoor Licenses may also require a noise variance depending on noise levels. Private parties at houses shouldn't need a permit.

For example, the Land Trust event at Pardon Gray would only require a license from the Town Clerk. Singing Out Against Hunger would still need a noise variance and an entertainment license. The Director of Public Safety, who is the Town Administrator, would also require notification. The Police Chief and the Fire Chief would determine whether or not the assignment of an officer or fire fighter was needed. President Bollin closed the Public Hearing.

Councilor Durfee made a motion the Ordinance be adopted. Seconded by Councilor Leonard the motion passed on a vote of 6-1, Councilor Costa abstained. The Ordinance Amendment was as follows.

ORDINANCE NO.2009-  
AN ORDINANCE IN AMENDMENT TO  
CHAPTER 51  
OF THE ORDINANCES OF THE TOWN OF TIVERTON  
Amusements.

WHEREAS, the Town of Tiverton desires to protect the public health, safety and general welfare through the regulation of public entertainment.

IT IS HEREBY ORDAINED by the Town Council of Tiverton, Rhode Island, that Chapter 51 of the Ordinances of the Town of Tiverton be added as follows:

Chapter 51  
AMUSEMENTS  
ARTICLE I.  
PUBLIC ENTERTAINMENT

Division 1. Generally

Sec. 51-1. Definitions.

*Public entertainment* means any gathering at which music or entertainment is provided by live performances or prerecorded means or a show or exhibition which is held indoors or out of doors to which members of the public are invited or admitted for a charge, or free of charge, by any person (including a corporation or commercial business) or organization residing or doing business in the town. Any license for public entertainment does NOT include adult entertainment which is otherwise regulated by zoning ordinance and this Code.

*Commercial Businesses* means those establishments that desire to provide public entertainment for the primary purpose of increasing the business' profits whether through a cover charge, increased patronage, sales, or any other method.

*Non-commercial Entities and Individuals* means those individuals or organizations that desire to provide public entertainment on a limited basis, not more than twice per year. Non-commercial entities and individuals seeking a license for more than twice per year shall be deemed commercial businesses for the purpose of this Chapter.

Secs. 51-2 - 51-20 Reserved.

Division 2. License

Sec. 51-21. License required.

No business, organization, or individual shall maintain, operate or conduct any public entertainment within the town without first obtaining a license from the town council or the town clerk as set forth herein.

1) Commercial Businesses

a) Indoor public entertainment

- i) No person, corporation, or organization doing business in the town, whether or not holding a holiday selling license, victualing license and/or an alcoholic beverage license, shall conduct or operate indoor public entertainment without first obtaining a public entertainment license.
- ii) The license granted hereunder shall not permit such entertainment to extend beyond the authorized time of such victualing or Sunday selling license. In the case of an alcoholic beverage license, entertainment shall not extend past midnight, unless otherwise determined by the town council.
- iii) It shall be the duty of the police chief and fire chief to determine whether or not the assignment of a detail police officer or detail fire fighter is needed. All police officers and/or fire fighters shall be paid at the prevailing hourly rate by the license applicant. The chief of police and fire chief may also restrict the number of persons allowed in the entertainment area as deemed necessary for the protection of the public health, welfare and safety.
- iv) The applicant shall meet the following additional safety, health and welfare requirements:
  - (1) The applicant shall provide the town clerk with evidence of commercial general liability insurance with a minimum of \$1,000,000 of coverage.
  - (2) The applicant shall provide an off-street parking area which at minimum shall meet zoning requirements of the particular zone in which the premises to be licensed is located.
  - (3) All trash and rubbish shall be collected and removed from both the entertainment area and the parking area within 24 hours after the conclusion of the entertainment.

b) Outdoor public entertainment

- i) Outdoor public entertainment as part of a person or organization's regular business functions is prohibited.

2) Non-commercial Entities and Individuals

a) Indoor public entertainment

No license is required for indoor public entertainment provided free of charge by non-commercial entities and individuals. However, if holding a public entertainment event that may reasonably include more than one hundred (100) persons, or if any fee is charged, whether a cover charge or an admission charge, or a required or even a "suggested" donation, then a license shall be required from the town clerk.

b) Outdoor public entertainment

Non-commercial entities and individuals desiring to provide outdoor public entertainment must obtain a public entertainment license from the town clerk, and if the noise level of such entertainment will exceed that allowed by Article IV of this Code, then a separate sound variance shall also be required from the town council.

(c) The town council, pursuant to Title 5, Chapter 22, of the General Laws of Rhode Island, and the town clerk as delegated herein, may place reasonable conditions on the issuance of a public entertainment license having due regard for the public convenience, welfare and safety of its residents, and for the prevention of nuisances, excess noise and maintenance of public peace.

(d) The license must be displayed by the applicant at the location where the entertainment has been approved. The license must be easily observed by patrons and town officials.

51-22. License application; information required.

(a) Any person or organization applying for a public entertainment license shall file an application in a form, approved by the town clerk, at least fourteen (14) days prior to the town council meeting at which it shall be considered, and at least fourteen (14) days prior to the event if issued by the town clerk. The application shall set forth the following information and such other information as may reasonably be required:

- (1) The name, residence, mailing address and telephone number of the person making the application. Where the person making the application is a partnership, corporation or other association, this information shall be required for all partners, officers, directors or members.
- (2) The days and hours during which the proposed public entertainment is to be conducted.

- (3) The nature and types of activities that will occur.
- (4) The number of musicians or entertainers that will participate in the event.
- (5) Whether or not the proposed show, exhibition or similar entertainment is to be amplified.
- (6) The approximate number of spectators and participants reasonably expected to be present or participate in the event.
- (7) A plan, drawn to scale, depicting the exact location of the event including the exact size and dimensions of the entertainment area and its approximate distance and relative location from the public entrance of the building or other enclosed area where applicable.
- (8) The location and number of health and sanitation facilities.
- (9) Written proof that the applicant is 18 years of age or older.
- (10) Other information as may be required by the town council or town clerk.

(b) For commercial businesses only, upon receipt of an application for a public entertainment license, an advertisement shall be placed in a local newspaper by the town clerk, at the applicant's expense, providing notice to the public of the town council meeting date at which the application will be heard. Notice of the hearing date shall also be mailed, at least two weeks prior to the date of the hearing, by the applicant to the abutters within a four hundred (400) foot radius of the premises at which the entertainment is to occur. Certification of such mailing and a list of abutters shall be submitted to the town clerk prior to the town council's consideration of the application.

#### Sec. 51-23. Fees; contents; terms.

The fees shall be set by the town council by resolution from time to time.

The license shall be issued at the time of payment, provided that all conditions and requirements for issuance have been met. Every license issued under this article shall specify the name and address of the person licensed, or if a corporation, the names and addresses of all stockholders and officers, the address where the public entertainment will take place and the hours, and the expiration date of the license. The term for a license under this article shall not exceed one year.

#### Sec. 51-24. Approval.

Upon receipt of the properly prepared application and fee, the town clerk shall forward copies of the application to the director of public safety, the chief of police, the fire chief, the zoning enforcement officer and the building inspector and other such officials as the director of public safety may deem necessary. Such officials shall review and investigate matters relevant to the application and, within ten (10) days of its receipt, shall make any pertinent reports, comments or recommendations about the application to the town council in writing.

#### Sec. 51-25. Prerequisites for obtaining a license.

The town council or town clerk shall NOT approve the issuance of a license under this article if the town council or town clerk finds one or more of the following to be true:

- (1) The applicant has not provided all the information requested under section 5-92 or has not complied with all other obligations as set forth in this article.
- (2) The applicant has falsely answered any question or request for information reasonably necessary for issuance of the license.
- (3) The applicant is overdue in payment of any town taxes, fees, fines or penalties as of the date of application.
- (4) The applicant has maintained, operated or conducted any public entertainment within the last 12 months and has demonstrated an inability to operate or manage such public entertainment in a peaceful or law abiding manner, thus necessitating action by police or other law enforcement.
- (5) There is other just cause to conclude that the issuance of a permit would be inconsistent with the purpose of this article.

#### Sec. 51-26. RESERVED

#### Sec. 51-27. Compliance with other laws.

(a) Every applicant for a license under this article shall show that the proposed entertainment and the premises used for the entertainment complies with all applicable federal, state, and local laws relative to health, safety and welfare of the public, including, but not limited to, zoning, traffic, parking, and fire protection before any license is issued or renewed by the town council.

(b) No licenses shall be issued or renewed to any applicant currently in arrears in any tax or assessments levied by the town at the time of the filing of the application. The applicant shall submit proof that all such taxes and assessments have been paid at the time the application was filed.

Sec. 51-28. Revocation or suspension.

All licenses granted under this article may be revoked at the sole discretion of the town council, even if granted by the town clerk. Sufficient cause to refuse further licenses under this article and to suspend or revoke any licenses issued under this article or deny renewal of a license originally issued under this article shall include but is not limited to the failure of the licensee to strictly comply with the provisions of this article and the laws of the State and of any terms and conditions imposed by the town council on the licensee. Upon denial, suspension or revocation of such license, the licensee shall be ineligible to reapply for a license for a period of two years from such denial, suspension or revocation.

Sec. 51-29. Operation without a license.

In addition to any action pursuant to section 51-28, any person who maintains, operates or conducts any public entertainment within the town without first obtaining a license, or in any location other than that specified in the license, and any licensee in violation of this article, shall be fined pursuant to section 51-23 for each offense. Each day of operation shall constitute a separate offense under this section.

Sec. 51-30. Waiver.

The town council, but not the town clerk, may, upon good cause shown, waive licensing requirements of this chapter consistent with public safety, health and welfare.

Sec. 51-31. Annual license year.

The annual public entertainment license year shall be from December 1st through November 31<sup>st</sup> of each year. Partial year license fees may be prorated by the Clerk.

#### **ADOPTED BY THE TOWN COUNCIL MARCH 9,2009**

#### **Town Administrator – Proposed Annual Review and Amendment to Various Fees, Fines and Permit Costs as Authorized by Ordinance and Previously Set Forth in Code –Continued From December 8<sup>th</sup> – Request continuance to February 23<sup>rd</sup> Meeting**

Town Administrator Goncalo has reviewed the proposed fees for reasonableness. The Council was presented with another spreadsheet with fees including those that did not change. Recommendations came from various Committees including the increase in Cemetery Fees due to budget and increased operating costs. Ray Joubert asked the Council to look at Emergency Services Fees, emergency alarm fees, didn't think they were high enough. Steve Berlucchi, Director of Public Works recommended the fees on page 12 for Street Excavator License and Street Opening Permit Fee, which were similar to listings on page 7. President Bollin closed the Public Hearing.

Councilor Durfee made a motion to adopt the Fee Schedule Changes, including the ones reflected on page 12 be inserted on page 7 and amended the motion to include the change in the special entertainment license on page 1 of the second spreadsheet. Seconded by Councilor Costa the motion passed on a vote of 6-1, Councilor Leonard opposed. Fees take effect upon adoption. Spreadsheet resolution attached.

#### **NEW BUSINESS:**

#### **Town Planner – Options Relating to Renewable Energy/Wind Options**

Town Planner, Christopher Spencer, appeared before the Council to discuss options related to renewable energy/wind options. Suggested two options, one would have the Economic Development Committee study the options and report back to the Council. Option number two would be to form an energy/wind committee of various individuals including members from Planning, EDC, Conservation, etc. Recommend 3-4 members. Garry Plunkett, Open Space Committee Member, who has had long-term interest in renewable energy recently attended a State Wide Energy Conference noted can be very complicated because of wind and engineering statutes. Advantage would be to find a group like the East Bay Consortium, which is writing a grant proposal for \$200,000.

Councilor Durfee suggested Mr. Plunkett chair the proposed committee. Mr. Plunkett volunteered to find members for the committee. Councilor Durfee recommended contacting former Councilor Brian Medeiros who had great interest in this subject. Solicitor Teitz to draft a resolution.

Councilor Durfee made a motion, seconded by Councilor Costa to begin the process to formulate a renewable energy/wind committee. Motion passed unanimously.

**Town Administrator - Ratification of Council 94, AFSCME Contract July 1, 2008 to June 30, 2011** Councilor Lambert made a motion to continue the ratification until April 13<sup>th</sup>. Seconded by Councilor Leonard for the sake of



discussion. Councilor Lambert concerned about the budget shortfall, revenues, tax increases, in fairness to the parties affected, might be appropriate to look at again. President Bollin, mindful of the savings of \$117,000, stated the savings would be diminished with delay. Councilor Durfee noted if the Council does nothing, overtime would increase. Believed Tiverton is the only Town that has negotiated out minimum staffing. To date overtime has accounted for \$40,000 and will continue to accumulate. Can't see holding up a contract that saves the Town money. Councilor Lambert concerned about going forward and then maybe needing concessions. President Bollin noted there is no provision in this agreement that guarantees a level of employment. Solicitor Teitz confirmed people could be furloughed or laid off. Councilor Lambert then withdrew his motion to continue.

Councilor Durfee made a motion to adopt the proposed agreement with AFSCME for July 1, 2008 through June 30, 2011. Councilor Arruda seconded the motion. Councilor Leonard noted in normal times this agreement would be fine, but these are not normal times, Opposed this on a principle basis, prefer to reach some accommodations, wanted to see the medical co-pay increased to 15%. Motion passed 6-1, Councilor Leonard opposed.

### **BIDS & REQUESTS FOR PROPOSALS**

#### **Tax Collector – Request Waive Bid Process for Printing of Tax Bills and Tax Rolls**

Tax Collector, Geraldine A. Holewiak, requested the Council waive the bid process for printing of tax bills. This year's estimate is only \$175 more than last year. Did not go out for bid last year.

Councilor Leonard made a motion to waive the process and approve the request. Councilor Roderick questioned the Solicitor about having a no bid agreement, is there a dollar amount. Solicitor Teitz pointed out if you find reasons not to go to bid then you can waive the process. Seconded by Councilor Lambert, motion passed unanimously.

#### **Town Administrator – Requests Permission to Advertise RFP for Town Financial Audit Services**

Councilor Durfee made a motion, seconded by Councilor Arruda to advertise for auditing services Motion passed unanimously.

### **TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS**

1. Administrator Goncalo announced the Town through Keith Stokes of Newport County Chamber of Commerce, was applying for Federal Funding for a number of projects including final subdivision plans for the Industrial Park, to provide a market analysis, create and implement a minimum of two public planning sessions, design and develop a Tiverton Business Web Site, work with EDC to design and develop a survey of business and prepare a final report that presents the collected data and makes planning and policy recommendations, totaling \$210,000.

2. Getting funding from the Newport Chamber of Commerce for

1. Developing Tiverton Economic Website
2. Engage a consultant to analyze strengths and weaknesses.
3. Hold a seat as an ex officio on the Economic Development Commission
4. Chamber underwriting architects proposing to develop the first site for the Industrial Park.

Councilor Leonard asked Solicitor Teitz if the Town Charter allowed for an ex officio seat for Keith Stokes to be on the Economic Development Committee. Solicitor to check language.

#### **Distribution of Proposed Budget Forwarded to Budget Committee**

Councilor Lambert concerned with identifying area to save, especially in contracts with the Police, Teamsters, etc. Administrator Goncalo was scheduling meetings with union officials. Haven't heard anything from the School Dept. Discussion ensued regarding tax rate increases. Laura Epke wanted to know if the Council was applying for a waiver if exceeding the 4.75% cap. Administrator Goncalo has been working with the Budget Committee. Councilor Costa asked about a list of mandates that was discussed as an area of savings at a previous Council meeting. Nothing has been received yet regarding mandates.

#### **Councilors Roderick and Lambert – Updating F/Y 2009/10 Budget**

Councilor Roderick and Councilor Lambert note the budget is still a work in progress.

### **COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**

1. Councilor Costa asked for a list of State mandates.
2. Councilor Costa wanted to know if a Traffic Commission could be set up to study signage, stop signs, etc.
3. Councilor Durfee wanted a status report on Bulgarmarsh Recreation area, T/A to ask for a schedule of events.

**TOWN SOLICITOR, ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**  
**Council Adoption of Policy for Posting of Meetings of Public Bodies**

In early January a workshop was held regarding the role of Public Officials and there was some confusion about posting agenda notices. Two hard copies must be posted-one at the Town Hall and one at the Essex Library. If no principal office exists then the agenda shall be posted at the building where the meeting will be held. Electronic copies must be posted at the Secretary of State's Website and the Town of Tiverton's Official Website, [www.tiverton.ri.gov](http://www.tiverton.ri.gov) In case of a challenge, and then the burden would be to prove the meeting was not properly posted. The following policy was recommended for Council consideration.

**Town of Tiverton**  
**Policy for Posting of Meetings of Public Bodies**  
**Adopted by Town Council – March 9, 2009**  
**Effective March 31, 2009**

**WHEREAS**, the State of Rhode Island has mandated certain requirements for the posting of public notice for meeting of public bodies, as set forth in the R.I.G.L. 42-46-6 (the Open Meetings Act); and

**WHEREAS**, the Town of Tiverton desires to meet both the letter and the spirit of the law, and provide minimum notice of meetings of its public bodies beyond what may be required by the Open Meetings Act;

**IT IS HEREBY DECLARED**, by the Town Council of Tiverton to be the policy of the Town of Tiverton, and all public bodies of the Town are directed to comply herewith, that notice shall be posted, in accord with the time limits set forth by the Open Meetings Act or any other statute that may require a longer period of time, in the following places:

**A. Hard Copies**

1. Town Hall bulletin board (to be date stamped by Town Clerk staff at time of posting).
2. Essex Public Library bulletin board (to be date stamped by Library staff at time of posting).
3. In that event that a public body does not have its principal office in either Town Hall or the Essex Public Library, then notice shall also be posted at the principal office of the public body holding the meeting, or if no principal office exists, at the building in which the meeting is to be held.

**B. Electronic Copies**

1. The Secretary of State's Website
2. The Town of Tiverton's Official Website, [www.tiverton.ri.gov](http://www.tiverton.ri.gov), or as it may be changed from time to time.

Failure of notices to actually be timely posted in ALL of the above locations, regardless of whether such failure is deliberate, negligent or totally inadvertent, shall be deemed a failure of notice, and the meeting shall not take place or be deemed void if it has already taken place at time of challenge of notice. It shall be the burden of anyone challenging notice under this policy to prove that notice was not appropriately posted.

Councilor Durfee made a motion, seconded by Councilor Costa to adopt the Policy for Posting of Meetings of Public Bodies. Motion passed unanimously, The effective date of the policy is March 31, 2009.

**CLOSED EXECUTIVE SESSION**

**Town Administrator – 42-46-5(a)(2) – Collective Bargaining AFSCME, Teamsters, IAFF and IBPO**

**Town Solicitor - Litigation – 42-46-5(a)(2)**

In Open Session, Councilor Durfee made a motion, seconded by Councilor Arruda to enter into Executive Session pursuant to 42-46-5(a)(2)-Collective Bargaining AFSCME, Teamsters, IAFF and IBPO. Motion passed unanimously.

Councilor Durfee further motioned to remain in Executive Session pursuant to 42-46-5(a)(2)-Litigation. Seconded by Councilor Arruda, motion passed unanimously.

The Council entered into Executive Session at approximately 10:10 p.m.

The Council returned to Open Session at approximately 11:20 p.m.

**OPEN SESSION:**

Council President Bollin announced no action had been taken in Executive Session.

Councilor Arruda motioned to seal the minutes of the Executive Session. Seconded by Councilor Roderick, motion passed unanimously.

**ADJOURNMENT:**

Councilor Costa made a motion, seconded by Councilor Roderick to adjourn. Motion passed unanimously.

The meeting adjourned at approximately 11:25 p.m.

A True Copy.    ATTEST: \_\_\_\_\_  
Nancy L. Mello, Town Clerk